

No. 3016-4Lab-76/16751.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak).

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 62 of 1973

between

SHRI MATA PHER, WORKMAN AND THE MANAGEMENT OF M/S SUPREME STEEL
ROLLING AND ALLIED INDUSTRIES, BAHADUR GARH (ROHTAK)

AWARD

The Governor of Haryana,—*vide* his order No. ID/RK/209-I-73/ referred the following dispute between Shri Mata Pher, workman and the management of M/s Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak), for adjudication by this court, in exercise of the powers conferred on him by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Mata Pher was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged,—*vide* claim statement that his services were terminated by the management illegally on 27th December, 1972, without assigning any reason in order to victimize him for his trade union activities and that he was entitled to reinstatement in the job of a tongs man held by him on wages of Rs 200 per mensem.

The management while denying the allegations of the workman pleaded that he voluntarily absented himself from duty with effect from 5th December, 1972. The workman controverted the pleas of the management,—*vide* rejoinder filed by him.

The following issues were thus framed on pleas of the parties,—*vide* order, dated 5th March, 1974 :—

- (1) Whether the services of workman concerned have not been terminated by the management and reference is therefore, premature and bad in law? (On Management).
- (2) In case issue No. 1 is not proved as per term of reference?

The management examined Shri Harbans Lal, their manager and led no other evidence. Shri Harbans Lal deposed with reference to the relevant register of employees brought by him in court that the workman absented himself from duty on 5th December, 1972 and continued to do so till 31st January, 1973, without their prior permission, with the result that his name was not carried over in the next month. He added that the workman was re-employed with effect from 14th March, 1974 and continued to be in their service till 10th May, 1974 whereafter there was a lay-off for 3 days and he did not turn up for joining duty on 14th May, 1974.

Shri Harbans Lal admitted that the management did not serve the workman with a notice asking for his explanation for his continued absence and they did not send him a reply of notice of demand served upon them.

As against the solitary statement of Shri Harbans Lal, M.W. 1, Shri Mata Pher, workman, himself came in the witness box while supporting his case relating to illegal termination of his services and denying the plea of his absence from duty with effect from 5th December, 1972. He however admitted having received an advance of Rs 150 from the management after his re-employment. This is all the evidence led by the parties in support of their pleas.

The management did not examine any of the co-workman or other employees in corroboration of the statement of Shri Harbans Lal and it was not explained as to what led to their withholding such an important evidence. There is thus a presumption that if examined these persons would not have corroborated their case and the plea put forth by the management in respect of the absence of the workman is false. At any rate the solitary statement of Shri Harbans Lal cannot legally be taken as sufficient for discharging the burden so heavily placed on the management under this issue, particularly when it stands rebutted by testimony of the workman and the circumstance of the failure of the management to ask for explanation of the alleged absence of the workman from duty and to send him a reply of his notice of demand. I, therefore, hold that the management have miserably failed to establish their case covered by this issue. I thus decide this issue against them.

Issue No. 2.—In view of my findings on issue No. 1, it is obvious that the management illegally terminated the services of the workman and he is entitled to reinstatement with effect from 27th December, 1972, till the date of his re-employment with continuity of service and back wages.

I, thus, answer the reference while returning the award in terms of findings made by me.

Dated, the 18th March, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 747, dated 19th March, 1976

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

No. 5202-4Lab-76/16753.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Municipal Committee, Shahabad, Markanda.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,
ROHTAK

Reference No. 45 of 1972

between

SHRI DARSHAN SINGH WORKMAN AND THE MANAGEMENT OF M/S MUNICIPAL
COMMITTEE, SHAHABAD, MARKANDA

AWARD

This is in continuation of my order, dated 19th December, 1975 holding an enquiry held by the management against the workman as vitiated on the grounds stated therein.

On intimation of the order, dated 19th December, 1975 to the parties, the management prayed for adducing evidence on merits of the case relating to the charge framed against the workman. On the management expressing such an intention, they were directed to adduce their evidence on merits of the charge on 24th March, 1976,—*vide* my order, dated 13th January, 1976.

The management examined Shri Ram Sarup, M.W. 1 and Shri Kishan Chand, M.W. 2 and closed their case. Shri Ram Sarup deposed that the workman concerned Shri Darshan Singh wanted to hand over to him only Rs 21.32 Ps. while handing over the charge instead of Rs 31.32 Ps. which he was liable to give him and that he declined to accept a smaller amount. He added that he made a report to the President of the Committee in respect of what had happened and prepared a "Jins War", Exhibit M.1 with the help of entries made by Shri Darshan Singh in the relevant register. He admitted in cross-examination that he did not make a report about the failure of Shri Darshan Singh to hand him over the "Jins War". He further admitted that he handed over the report to the Peon for being taken to Superintendent, Octroi without making any entry anywhere. He also admitted that he made the remarks Exhibit W. 1 on page 20 of the Attendance register in respect of failure of Shri Darshan Singh to pay him Rs 31.32 Ps.

Taking the evidence of Shri Ram Sarup for purposes of scrutiny, the management admittedly failed to produce the report alleged to have been made by the former to the President of the Committee through Superintendent, Octroi on record and the presumption under the circumstances obviously is that no such report was made by Shri Ram Sarup immediately on 22nd September, 1970. The remarks Exhibit W. 1 on page 20 of the Attendance register relating to the failure of Shri Darshan Singh to pay Rs 31.32 Ps. to Shri Ram Sarup were admittedly recorded in absence of Shri Darshan Singh and as such do not bind the later and do not have any evidentiary value against him, particularly when he (Darshan Singh) asserted having made a payment of Rs 31.32 Ps. to Shri Ram Sarup at the time of handing over the charge. The entry marked 'A' at Serial No. 7 relating to the taking over charge by Shri Ram Sarup from Shri Darshan Singh is in the hand writing and under the signatures of the former without any mention of non-payment to him of Rs 31.32 Ps. In case Shri Darshan Singh would have

not paid Rs 31.32 Ps. to Shri Ram Sarup, the later must have in the ordinary course stated that fact under his signatures put by him at mark 'A'. All these circumstances taken together with the admitted fact of the failure of the management to produce the report alleged to have been made by Shri Ram Sarup to the President of the Committee, leave no room for doubt that the whole story put forth by the management is false and fabricated and has been made only to victimise Shri Darshan Singh for his trade union activities. Shri Ram Sarup is admittedly brother of Shri Rattan Lal, the then Municipal Commissioner and as such could easily be influenced to cook up such a story. I am, thus, convinced that the report and the entry Exhibit W. 1 were made by Shri Ram Sarup much after Shri Darshan Singh had handed over the charge, in order to victimise the later.

An admission alleged to have been made by Shri Darshan Singh to Shri Kishan Chand that he had made up the deficiency of Rs 11 in the octroi money, on 22nd September, 1970, is in consistent with the case of the management that he had failed to pay the entire octroi money of Rs 31.32Ps. The statement of Shri Kishan Chand that Shri Darshan Singh admitted before him that he had made up the deficiency of Rs 11, as found rebutted by his own statement made by him before the enquiry officer that Shri Darshan Singh had told him that he would make up the deficiency of Rs 11. Shri Kishan Chand admitted that a despatch register was maintained on every octroi post and that he as Octroi Inspector used to sign such a register at the time of his inspection of the octroi post. This statement falsified the testimony of Shri Ram Sarup that no such register was maintained at his octroi post and that he could not as such make an entry therein of his having sent a report to the President. Shri Kishan Chand admitted that the succeeding octroi moharir signed the register only after the charge had been taken and this admission again supported case of the workman that he had actually handed over complete charge including the octroi money to Shri Ram Sarup and that the story now put forth by the management was subsequently fabricated.

Shri Kishan Chand admitted that Shri Darshan Singh was the Secretary of the union of employees of the Municipal Committee, Shahabad, Markanda on 22nd September, 1970 when this case was reported and that he had obtained a decree of a sum of Rs 28,000 in favour of the union of the workmen of Municipal Committee, Shahabad against the Committee in respect of their wages, from the court of Senior Sub-Judge, Karnal and this furnishes the motive for the management to involve him in such a serious case.

Taken from any angle the management has not been able to substantiate the charge framed against the workman by substantial, cogent and reliable evidence and it is on the other hand firmly established that the charge against the workman was false and fabricated.

I, thus, decide issue No. 2 against the management while holding that the termination of services of the workman was unjustified and that he is entitled to re instatement with effect from 30th August, 1971 with continuity of service and full back wages. I, accordingly, answer the reference while returning the award in these terms.

Dated, the 26th May, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 1377, dated the 27th May, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

No. 4239-4Lab-76/16755.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Super Steel Industries, 5-C-23, N.I.T., Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 31 of 1976

between

SHRI RAM SUMMUJH WORKMAN AND THE MANAGEMENT OF M/S SUPER STEEL
INDUSTRIES, 5-C-23, N.I.T., FARIDABAD.

AWARD

By order No. ID/FD/88-A-75/3015, dated 23rd January, 1976, the Governor of Haryana, referred the following dispute between the management of M/s Super Steel Industries 5-C-23, N.I.T., Faridabad and

its workman Shri Ram Summujh to this Tribunal, for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Ram Summujh, workman is justified and in order? If not, to what relief is he entitled?

Whereas the workman put in his appearance in this Tribunal on 8th March, 1976 in response to the usual notices of reference sent to him through his authorised representative Shri R. L. Sharma who actually raised the demand on the management on his behalf, the management declined to accept service of notice of reference sent to them for that date with the result that *ex parte* proceedings were taken up against them and the workman was directed to adduce his *ex parte* evidence on 23rd April, 1976 the next date of hearing fixed in the case.

Neither the workman nor the management were found present on 23rd April, 1976 the date of hearing fixed in the case, and their absence led to a conclusion that the workman was not interested in pursuing the demand made by him on the management leading to this reference and there was now no dispute between the parties requiring adjudication.

I hold accordingly and answer the reference while returning the award in terms of these findings.

Dated, the 27th April, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 540, dated the 28th April, 1976.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required by section 15 of the Industrial Disputes Act, 1947.

Dated the 28th April, 1976.

MOHAN LAL JAIN,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 11th June, 1976

No. 3015-4Lab-76/16864.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s. Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak).

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA
ROHTAK

Reference No. 61 of 1973

between

SHRI KRISHAN KUMAR, WORKMAN AND THE MANAGEMENT OF M.S. SUPREME STEEL
ROLLING AND ALLIED INDUSTRIES, BAHADURGARH (ROHTAK).

AWARD

The Governor of Haryana,—vide his order No. ID/RK/209-H-73/referred the following dispute between Shri Krishan Kumar, workman and the management of M/s. Supreme Steel Rolling and Allied Industries, Bahadurgarh (Rohtak) for adjudication by this court, in exercise of the powers conferred by clause (c) of sub-section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Krishan Kumar was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged that the management illegally terminated his services on 24th November, 1972 without assigning any reason, in order to victimize him for his trade union activities and that he was entitled to reinstatement in the job held by him on wages of Rs. 150/- per mensem.

The management while denying the allegations of the workman, pleaded that he was suspended,—*vide* letter dated 14th October, 1972 on receipt of complaints against him from the foreman concerned and was reinstated,—*vide* letter dated 20th October, 1972 with a token punishment of his suspension period treated as without wages and was transferred as helper in the workshop section to avoid further losses. They added that he did not report for duty in the workshop section and was again directed to report for duty and that he objected to his transfer to the workshop section while insisting to work as a girderman. The management finally set up a plea that they did not agree in his joining as a girderman and that he did not report for duty on the job of a helper in the workshop section and that they never terminated his services on 24th November, 1972.

The workman admitted the exchange of letters as referred to by the management, between the parties and reiterated,—*vide* a rejoinder filed by him that his services were terminated on 24th November, 1972 after he had joined his duties.

The following issues were thus framed on pleas of the parties,—*vide* order, dated 5th March, 1974:—

1. Whether the present reference is bad in law and without jurisdiction reason given in the written statement (on management).
2. As per term of reference.

I have heard the authorised representatives for the parties with reference to the evidence lead by them. I decide the issues as under:—

Issue No. 1.—The only question requiring determination under this issue centres round the pleas of the management relating to absence of the workman from duty from 20th October, 1972 till 24th November, 1972 whereas the workman alleged all along that he had joined his duties in compliance with the letter dated 20th October, 1972 Ex. M. 4 after the exchange of correspondence (Ex. M. 4 to M. 8), the management stoutly denied this fact. The short question for determination under the circumstances would be as to whether the workman ever joined his duties in the workshop section after 20th October, 1972 in compliance with the orders given to him,—*vide* letter Ex. M. 4. The workman admitted having sent letter Ex. M. 9, dated 4th November, 1972 to the Labour Inspector wherein he is found to have expressly declined to join the duties of a helper in the workshop section, and prayed to the labour Inspector for arranging his fixation as a girderman. It is thus manifest that he had not only declined to join his duties in the workshop section in compliance with the orders contained in letter Ex. M. 4, dated 20th October, 1972 but he had well expressed his mind not to join his duties in the workshop section. There is no other evidence on the record to show that he ever joined his duties in the workshop section after 4th November, 1972, so much so even the workman while appearing as his own witness did not even dare to depose to that fact. The irresistible conclusion in the circumstances is that he never joined duties in the workshop section in compliance with an order of the management contained in letter Ex. M. 4, dated 20th October, 1972 and continued insisting on an unjust and unreasonable demand of joining only as a girderman. The plea so seriously adhered to,—*vide* correspondence (letters Ex. M. 4 to M. 9), is not relied upon by him during the proceedings of this reference. The mere averment made by the workman in the notice of demand, dated 25th November 1972 Ex. W. 3 that he had joined his duties in the workshop section without any statement to that effect in his deposition before me or any other evidence on record would not be sufficient to establish that the joined duties after 4th November, 1972, in the workshop section. The normal presumption on the other hand would be in respect of continuity of his absence.

I thus hold that the workman never joined duties in compliance with an order, dated 20th October, 1972 Ex. M. 4 and that he voluntarily continued to remain absent from duty thereafter and that the management never terminated his services. The result is that the reference relating to the termination of his services is bad in law and he is not entitled to any relief. I thus decide this issue in favour of the management and the question of deciding issue No. 2 under the circumstances does not arise.

I accordingly answer the reference while returning the award in terms of the findings made by me.

Dated the 18th March, 1976.

No. 746, dated 19th March, 1976

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,
Presiding Officer,
Labour Court, Haryana, Rohtak.

P. P. CAPRIHAN,
Commissioner and Secretary to Government,
Haryana, Labour and Employment Departments